

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

ROBERT D. HINSON,

Plaintiff,

versus

JAMES W. POWELL, *et al.*,

Defendants.

CIVIL ACTION NO. 1:22-CV-369

**ORDER PARTIALLY ADOPTING
THE MAGISTRATE JUDGE’S REPORT AND RECOMMENDATION**

Plaintiff Robert D. Hinson, proceeding *pro se*, filed the above-styled lawsuit against James W. Powell, Bob Wortham, Wendell Radford, Jr., and John B. Stevens. The court previously referred this matter to the Honorable Christine L. Stetson, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court.

The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge recommending the case be dismissed for failing to state a claim upon which relief may be granted and for seeking monetary relief from defendants immune from such relief. The magistrate judge concluded the claims against the defendants for damages were barred by the Supreme Court's decision in *Heck v. Humphrey*, 512 U.S. 477 (1994). The magistrate judge further concluded defendant Radford did not act under color of states law and that defendants Wortham and Stevens were entitled to immunity. Finally, the magistrate judge stated that plaintiff's request for injunctive relief could only be pursued through the filing of a habeas corpus petition. To date, the parties have not filed objections.

The court has received the Report and Recommendation, along with the record, pleadings, and all available evidence. After careful review, the court finds that the findings of fact and conclusions of law of the magistrate judge are correct.

While plaintiff did not file objections, he did file a motion seeking leave to file an amended complaint. That motion (#25) is **GRANTED**. In his motion, plaintiff asks that defendants

Wortham and Radford be dismissed from this lawsuit.¹ He also states he is only seeking injunctive relief from defendant Stevens.

Accordingly, the Report and Recommendation of United States Magistrate Judge (#24) is **PARTIALLY ADOPTED** to the extent it recommends dismissal of this matter. The claims against defendants Radford and Wortham are dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i). The claims against defendants Powell and Stevens are dismissed for failure to state a claim upon which relief may be granted. A final judgment shall be entered dismissing this lawsuit.

SIGNED at Beaumont, Texas, this 25th day of March, 2024.



MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE

¹ Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(I), a plaintiff may dismiss his claims against one or more of the defendants before an answer or motion for summary judgment is filed.